

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

BOOST WORLDWIDE, INC., §
§
Plaintiff, §
§
VS. § CIVIL ACTION H-11-3454
§
YUSUF GODIL d/b/a RK CELLULAR, §
§
Defendant. §

OPINION AND ORDER

Pending before the Court in the above referenced cause alleging trademark infringement is Plaintiff Boost Worldwide, Inc.'s request for entry of default (instrument #6) against Defendant Yusuf Godil d/b/a RK Cellular pursuant to Federal Rule of Civil Procedure 55(a).

Federal Rule of Civil Procedure 55 sets forth the conditions under which default may be entered against a party, in addition to the procedure to seek entry of default judgment. The Fifth Circuit has established a three-step process for obtaining a default judgment. *New York Life Ins. Co. v. Brown*, 84 F.3d 137, 141 (5th Cir. 1996). First, a default occurs when a Defendant has failed to plead or otherwise respond to the complaint within the time required by Federal Rule of Civil Procedure 12. Second, when the default is established by affidavit or otherwise, the clerk may enter default. Rule 55(a); *id.* Last, a plaintiff may then apply to the clerk or the court for a default judgment after an entry of default. Rule 55(b); *New York Life Ins.*, 84 F.3d at 141.

In this district the District Court orders entry of default. Plaintiff has satisfied the first two steps. Accordingly the Court ORDERS that the Clerk shall enter default against Defendant Yusuf Godil d/b/a RK Cellular.

SIGNED at Houston, Texas, this 14th day of December, 2011.

Melinda Ha
MELINDA HARMON
UNITED STATES DISTRICT JUDGE